

Senate Budget & Fiscal Review

Senator Steve Peace, Chair



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on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Ray Haynes
Senator Deborah Ortiz

Catherine Camp, Consultant

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AGENDA

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CONSENT AGENDA

5160 Department of Rehabilitation

Spring Letter Concerning Full Funding for Positions

The Department has completed a review of personnel funding within the Department. They have found that positions cost more than budgeted, and that positions must be kept open in order to remain within budget. The Department believes that recent efforts to aggressively reduce vacancies has resulted in a higher level of filled positions than prior years. In addition, the Department has had to recruit employees above the bottom step of position levels in order to fill positions.

The Department has submitted a spring finance level proposing to allocate federal funds in the amount of \$2.7 million to fund 50.3 vacant positions, allowing the Department to fill these positions without going over budget. The Department proposes to use federal funds paid when the Department removes an individual from SSI or SSDI, or reduces the benefits paid. The Department has been more successful than anticipated in receiving these federal bonus funds, and thus finds that these funds are available and can be used to support program staff.

No issues have been raised about this proposal.

5170 California Department of Aging

Foster Grandparent and Senior Companion Programs

The state operates the Foster Grandparent program, that provides senior volunteers to support children with special and exceptional needs in child care programs and other congregate settings. The Senior Companion program provides senior volunteers to assist other seniors who are at risk of placement in a nursing facility with tasks of daily living.

Federal policies require that the portion of the Foster Grandparent and Senior Companion programs that are General Fund provided, receive a stipend equal to the level paid by the federal rules. Volunteers were paid \$2.55 per hour tax free up until April 1, 2002. On April 1, the federal rate was increased to \$2.65 an hour. **A spring finance letter proposes to augment the budget by \$83,000 to pay the non-federal share of the increase in 2002-03. These funds are \$62,000 from one-time federal funds, and \$21,000 General Funds.** In future years, the cost of the stipend increase will be paid from General Funds.

No issues have been raised about this proposal.

CDA Office of Planning, Policy and Program Development

The Budget Act of 2000 created within the Department an Office of Planning, Policy and Program Development. The Budget Act required that an annual report be provided on the outcomes, activities, budget proposals and administrative changes associated with the Office.

The Department submitted a report to the Legislature in April concerning the operations of the Office. The Office has supported the Long-Term Care Innovation Grants program, the Senior Housing Information and Support Center and the Policy Unit. The Long-Term Innovation Grants will be completed in June, 2002, and the evaluation report for the Grants is discussed below.

The Senior Housing Information and Support Center provides consumer information and training on housing and home modifications to support people with age or disability related needs for those modifications. Legislation in 2000 established the Center as a permanent program within the Department.

The Policy Unit has tracked emerging aging and long-term public policy issues for the department, and has been the focus of coordination efforts with interdepartmental and interagency work groups on aging issues.

The Office was established with two-year, limited term positions. The positions are not renewed in the budget. The Department concludes that the relationships and skills established by the Office will continue to be utilized within the Department.

No action is required on this report.

DISCUSSION AGENDA

5160 Department of Rehabilitation

Vocational Rehabilitation Services: Ticket to Work Act

In December, 1999, the federal Ticket to Work and Work Incentives Improvement Act became law, designed to increase the number of persons receiving Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) that obtain employment and thereby reduce or eliminate their benefit payments. The federal act provided that claimants could choose their own employment service provider, and that providers would only be paid when the claimant obtained work. The act also provided that claimants could maintain Medi-Cal or Medicare coverage while working.

The current budget includes Supplemental Report Language requiring DR to report by January 1, 2002, on prospective and ongoing efforts to implement the Ticket to Work Act, including (1) a timetable for implementation, including release of federal regulations; (2) the impact of the act on Californians, including on DR caseloads; (3) the status of any negotiations with providers for services; and (4) any changes in law or regulation necessary to achieve compliance.

The federal government has been slow in initiating Ticket to Work authority to states. The current schedule is for California to begin its program in August 2003. The report has just been released.

- **The Department will summarize the findings of the report, including any problems the state is likely to have implementing the Ticket to Work Act.**

4170 California Department of Aging

Innovation Grants

The budget in 2000-01 provided \$14.3 million for one-time grants to private and non-profit agencies to initiate or expand innovative delivery strategies and alternatives to nursing home placement. Funds were awarded in three categories: (1) 16 grants in community-based partnership building and planning; (2) 6 grants in innovative coordination and collaboration; (3) 6 grants for access to appropriate community-based services for special populations. Grants ranged from \$61,000 to \$2.3 million. All were intended to address the needs of seniors and/or their caregivers, with targeted information, skills training, in-home services, and service delivery in the languages, cultural settings, and living centers where California's seniors live. Grantees will operate through June 2002.

A legislative report was requested for spring of this year. The report has been released by the Department, and includes findings from an evaluation performed by a consultant, including site visits during the first half of the grant period. The summary of the evaluation is as follows:

- All grants have helped adults with functional impairments and older adults remain in their own homes with a good quality of life.
- The majority of grants provide greater accessibility of services to the consumer on long-term care options.
- The majority of grants solicit new and/or additional sources of information on the needs of consumers.
- All the grants at a minimum indirectly demonstrate long-term care alternatives and all the grants are replicable.
- It is too soon in the grant funding cycle to demonstrate and quantify results of the use of general fund dollars.
- The majority of grants have not focused on sustainability.

The Department will respond to the following:

- **What policy conclusion does the Department draw from the Innovation Grant process?**
 - **Will the specific information from these innovative programs be utilized by the Long Term Care Planning Council, and what process is contemplated for this process?**
 - **Will the Department update the evaluation after the grant period is complete?**
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4200 DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

The Department of Alcohol and Drug Programs receives and disburses federal and state alcohol and drug funds to plan, develop, implement and evaluate a statewide system for alcohol and other drug intervention, prevention, detoxification, treatment and recovery services. The system serves 360,000 persons annually and licenses, certifies and monitors more than 1500 alcohol and other drug programs, including monitoring a statewide network of services administered or provided by county governments and private entities. **The proposed budget provides \$544.2 million for these purposes, a reduction of \$47.2 million or 8% from the current year.** The reduction in funding reflects in part the end of one-time funding and a caseload decrease in Drug Medi-Cal.

Summary of Expenditures (dollars in thousands)	2001-02	2002-03	\$ Change	% Change
General Fund	\$256,881	\$223,182	(\$33,699)	-13.1
Sale of Tobacco to Minor Control Acct.	-2,000	-2,000	0	0.0
Driving-Under-the-Influence Program Licensing Fund	1,752	1,781	29	1.7
Narcotic Treatment Program Licensing Fund	1,110	1,127	17	1.5
Audit Repayment Trust Fund	67	67	0	0.0
Federal Trust Fund	253,553	250,271	(3,282)	-1.3
Resident Run Housing Revolving Fund	39	39	0	0.0
Reimbursements	80,023	69,754	(10,269)	-12.8
Substance Abuse Treatment Trust Fund (non-add)	[120,000]	[120,000]		
Total	\$591,425	\$544,221	(\$47,204)	-8.0

Departmental Administration

The budget proposes to restore seven positions that were abolished effective July 1, 2001, since they had been unfilled for six consecutive months. Among the positions are 4 CEA positions, 2 Analyst positions and one Office Assistant. A portion of the Department's problem was vacant appointed Director and Chief Deputy Director positions for an extended period, with a resulting lack of authority to initiate CEA examinations. **The budget provides \$536,000 (\$48,000 General Fund) for this purpose.**

Last year's budget appropriated funds for a system to automate the licensing and certification process and for additional automation system support, pending approval of an FSR. The FSR is still in process, but the Department anticipates accomplishing the spending in this current year.

The budget includes a new item to schedule funds for compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA). The funds were originally scheduled in current year in a Control Section combined with other departments; the funds were removed in the January one-time reduction. This item schedules the same amount for the budget year (\$6.0 million, half General Fund, for this Department alone). The Department says that the funds will primarily be used for contractor assessment, process development, privacy and security assessment, and risk management activities. An FSR has been approved for the work; the Department anticipates that HIPAA compliance will be modified as the Health and Human Services Agency Office of HIPAA Implementation begins its operations. The subcommittee has asked that the LAO review the plans for expenditure of these funds to assure that all automation review activities have been observed.

- **The LAO will report on their review of Department HIPAA activities.**
- **The subcommittee will determine whether to adopt the Department's BCP on positions.**
- **The subcommittee will determine whether to adopt the Department's HIPAA budget.**

Proposition 36

California voters approved Proposition 36, the Substance Abuse and Crime Prevention Act, in November 2000. The proposition changed sentencing laws, effective July 1, 2001, to require adult offenders convicted of nonviolent drug possession to be sentenced to probation and drug treatment instead of prison, jail or probation without treatment. Certain offenders, those who refuse treatment or who are found by the courts to be "unamenable to treatment", are excluded from the provisions of the Act. The Act further requires that state prison parolees with no history of violent convictions who commit a non-violent drug offense or violate a drug-related condition of parole be required to complete drug treatment in the community, rather than being returned to state prison.

The measure requires that the state provide \$120 million annually through 2005-06, to be deposited to a new Substance Abuse Treatment Trust Fund, and distributed to counties to pay for the costs of treatment and related programs. Funds may be used for substance abuse assessment, treatment, vocational training, family counseling, literacy training, probation supervision and court monitoring of offenders.

Report on allocation of funds: Informational Item Only

Budget Language in the current year required a report on the allocation of Proposition 36 funds to counties, including the method used in 2001-02, the impact of that method on counties, suggested alternative methodologies, if any, and the benefits and detriments of each methodology in the report.

The Department reports that the method used for the start-up funds in 2000-01 and the first year of implementation, 2001-02, was as follows:

- distributed 50% based on a minimum allocation with the balance based on population (population being an indicator of need);
- distributed 25% based on adult felony and misdemeanor drug arrest data (arrest data being an indicator of demand);
- distributed 25% based on treatment caseload (caseload being an indicator of treatment capacity and supply).

Although there have been questions and issues raised with this methodology, no comments on the methodology were received during the public comment period for the permanent adoption of program regulations. Overall, the Department believes that it is too soon to evaluate the impact of the methodology. The Department will continue to work with stakeholders in the Statewide Advisory Group, when sufficient data and experience have been gained.

State parolees: Informational Item Only

The procedure for providing Proposition 36 services to state prison parolees was complicated, and required considerable development of guidelines and coordinating relationships. There were problems coordinating parole holds with the referral of parolees to Proposition 36 services. The Department and the Youth and Adult Correctional Agency have formed a joint committee to work out ongoing coordination issues.

The number of parolees served has been lower than anticipated. **According to legislative information, 3,252 parolees were offered Proposition 36 treatment and 2,159 parolees accepted the offers.** Parole had a slow start up because of a complete infrastructure change at the Board. It is anticipated by the Board that this year's referrals will fall 15-10% below the original 7,181 projection. There are only about 800 parolee referrals in the Department's automated information system, compared to the estimate of 7,181. The joint committee is now working on procedures to see that the count of parolees in the system is accurate.

The Board initially had a bumpy referral process, because of inadequate staff to manage the referral process, and too many moving parts. **The Board of Prison Terms and Parole and Community Services Division have redesigned the infrastructure of the proposition 36 screening and referral process. The process has been approved by decision makers and new policies and procedures should be in place within 30 days.** The new procedures should resolve most of the referral and communication problems that existed under the old system.

Drug Testing

Proposition 36 specifically prohibits the use of funds from the Substance Abuse Treatment Trust Fund for the cost of drug testing. Regardless, mandatory and random drug testing is viewed by most alcohol and other drug treatment professionals as an important and integral component of successful treatment.

The Legislature approved legislation in 2001 (SB 223, Burton, Chapter 721) that allows drug testing for clients treated under the Proposition 36 program. The bill requires that funding be used to supplement existing testing programs; provides that federal funds can be used for drug testing where consistent with federal law; requires that drug testing not be given greater weight than other aspects of the treatment program where treatment is a condition of probation or parole; and requires that in order to receive funds for testing, a county must have a Department-approved plan.

The General Fund portion of funding in the bill was vetoed. In the current year, testing was funded by a direction of federal Substance Abuse Prevention and Treatment Block Grant funds (\$8.4 million) for this purpose. **The budget proposes to continue to fund the drug abuse testing program by specifying the use of federal block grant funds in the amount of \$8.6 million.**

It is likely too early to assess whether the funds for this purpose are adequate. Some counties have reduced the number of drug tests they would normally administer to a participant during the course of treatment to fit their county allocation of drug testing funds. The original estimated need for drug testing was \$18 million, and the analytical basis for that estimate has not changed.

- **The Department will report on implementation of SB 223.**

Report on Proposition 36 Implementation

The subcommittee requested last year in budget language that the Department prepare a written summary of the status of implementation of the Proposition for budget hearings this year. The budget bill language was vetoed, at least in part because the Administration believed that this year's budget hearings were too soon for meaningful reporting.

A September report was released, prepared by Health Systems Research for the Department and the federal Substance Abuse and Mental Health Services Administration, analyzing plans from the 58 counties to implement Proposition 36. The information in the report is from the first year plans, and do not include implementation information. The report includes the following findings:

- Nearly 90% of referrals are expected to come from the court/probation system; 10% from the state parole authority.
 - 51 of 58 counties will require drug testing of Proposition 36 clients (using non-Proposition 36 funds)
 - 53 counties selected behavioral health professionals to provide assessment and placement services.
 - The average percentage of budgeted funds to be spent on services is 79.1%, with the range from 51.5% to 100%.
 - The average percentage of budgeted funds to be spent on criminal justice activities is 20.9%, with the range from 0 to 48.5%.
 - 55 counties projected an increase in total capacity of services in 2001-02.
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The Department will report on the status of its evaluation planning, and on what available information suggests about implementation:

- How many persons do you anticipate will be served in the current year, compared to projected expenditures? Have the low numbers reduced spending?
- Have counties had sufficient treatment resources available? Have the resources been the right kind?
- Do you have information about no-shows among those referred?

Drug Court

The state currently provides funding for two programs to support drug courts. The Drug Court Partnership program, established as a four-year demonstration project, is scheduled to expire at the end of the budget year. 34 counties operate drug courts under this program. The courts provide post-plea services only, and only to adults. The funds are administered by the Department, under program design and implementation guidelines developed with the concurrence of the Judicial Council. Funds are allocated as a grant amount for small/medium programs and large programs, depending on county size. The legislation creating the program required an evaluation, provided this spring. Funding for this program at the end of last year was \$7.6 million. **The Drug Court Partnership Program is scheduled to sunset at the end of the budget year.**

The second program is the Comprehensive Drug Court Implementation Program. The program provides grants to 47 counties, based on a population-based allocation methodology. Funds can be used for pre- or post-plea services, to adult, juveniles, and dependents. This program also has a mandated evaluation to be completed by the Department, in collaboration with the Judicial Council. Funding for this program at the end of last year was \$9.5 million.

The Governor vetoed \$3 million from the combined drug court funding in the current year. The Department, after stakeholder consultation, allowed courts to determine how the reduction would be taken between the Partnership and Comprehensive Drug Courts.

The evaluation findings include the following:

- Participants had long histories of drug use and multiple incarcerations, as well as other social difficulties, including homelessness, unemployment, and limited education.
 - Participants who completed the program improved substantially in all areas, showing decreased drug use and re-arrest, as well as improvement in employment and education, acquisition of stable housing, and increased family involvement.
 - The arrest rate for program completers is 85% less during the two years after admission than the arrest rate for those entering the programs during the two years prior to entry.
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- The conviction rate for completers is 77% less during the two years after admission; the incarceration rate for completers is 83% less during the two years after admission.
- 95% of all babies born while their mothers participated in drug court were drug-free.
- Jail and prison days avoided, averted costs of approximately \$42 million, compared to a cost of \$14 million in Drug Court Partnership funds during the period of the evaluation.

The Department has provided more detailed information, that indicates the arrest rate for Drug Court completers drops even more sharply for those with a felony charge. The conviction rate for completers drops more sharply for those with a felony charge. The incarceration rate for completers in a greater drop in jail time (83%) than in prison time (50%). **Two charts are attached showing avoided jail costs by county, and prison costs avoided, due to Drug Court Partnership Program completion, using data from the evaluation.**

The budget proposes to eliminate all funding for the Drug Court Partnership. \$4 million were reduced because the program is sunsetting, and half the programs received their final payment from current year funds; an additional \$4 million is removed to expedite the end of the program. Finally, the \$3 million current year reduction is continued. Because the Drug Court Partnership program is allowed to sunset, the entire \$3 million will come from the Comprehensive Drug Court program. The Department has provided information to show that the average number of participants in the Drug Court Partnership has dropped 38% since the passage of Proposition 36. The Assembly restored the funding for the Drug Court Partnership from federal block grant funds, extended the sunset one-year, and committed to trailer bill language that requires the use of federal funds for federally allowable purposes only.

- **The Honorable Stephen Manley, Co-Chair of the Executive Steering Committee to the Drug Court Partnership, will summarize the evaluation findings.**
- **The Department will discuss the impact this reduction might have on Proposition 36 implementation.**
- **The LAO will summarize their recommendation concerning this reduction.**
- **The subcommittee will determine whether to adopt the Governor's reduction.**

Community Treatment Reductions

The Legislature in 2000 expanded non-Drug Medi-Cal programs at the community level with \$7.7 million for adult treatment programs, and \$5.7 million for treatment programs for adolescents. **Both these expansion amounts were eliminated in the current year budget.**

The budget proposes an unallocated additional reduction of non-Drug Medi-Cal services of \$7.5 million General Fund. The Department will distribute this reduction according to their standard methodology.

The current year budget required that the Department report in budget hearings an analysis of county allocations that examines the total funds available per resident, the Drug Medi-Cal funds available per resident, the federal block grant funds available per resident, and discretionary funds available per resident. The analysis should identify whether variations in funds are likely to affect access to the availability of a full continuum of care in communities. The Department has provided baseline information regarding the distribution of all funds, Drug Medi-Cal, federal funds, and discretionary funds per resident. **At the time of the subcommittee's pre-hearing meeting on the budget, the Department had not prepared an analysis of how the fund distribution might affect access to a full continuum of care.**

Generally, the distribution of funds is equitable within a fairly narrow range (from \$8-\$10 per resident for most small, medium and large counties for all funds). The very smallest counties are outliers, due to their small population size. A few of the larger counties have more, up to \$19/resident. Some of the anomalies might be explained by the presence of unique programs, such as the perinatal funding associated with programs that originally received federal funds. The exception to this relatively narrow range is Drug Medi-Cal, discussed below.

For the past two years, the budget included \$850,000 for contracts to provide Technical Assistance Contracts. These funds were an expansion two years ago to provide specific training for targeted populations. These funds are now deleted, leaving a base training amount equal to funds provided in 1999-2000, or about half the funds available in the current year.

- **The Department will provide the requested analysis of county allocations.**
- **The Department will report on the specific activities of the expanded technical assistance contracts.**

Drug Medi-Cal

The current year budget required that the Department report in budget hearings on the status of its plan to improve access to Drug Medi-Cal, especially for children and young people, including any proposal to change the rates, the scope of benefits, and the treatment approval procedures so that the program serves Medi-Cal beneficiaries appropriately. **At the time of the subcommittee's pre-hearing meetings on the budget, the Department had not prepared a report.**

The Legislature in 2000 planned a significant expansion of Drug Medi-Cal in budget trailer bill language. The legislation authorized the Department to add Day Care Rehabilitative services and Case Management/Relapse Prevention services to the types of

treatment eligible for Medi-Cal. The federal government has since approved the Day Care Rehabilitative proposal; the Case Management/Relapse Prevention proposal is still pending. The current year budget postponed the expansion under both proposals for the current year.

The budget proposes to further delay the addition of Day Care Rehabilitative services, and to continue to postpone the Case Management/Relapse Prevention service type. **In addition, the budget estimates a decrease of \$3.7 million General Fund (plus \$3.9 million reimbursements) in the current year and \$3.7 million General Fund (plus \$5.9 million reimbursements) in the budget year.** The Department believes that the decrease represents a technical error, corrected in both the current and budget-year estimates. The failure of this program to show any increase remains disquieting, given the growth in other Medi-Cal programs. The Department estimates that approximately \$2.9 million will be used to fund Drug Medi-Cal under Proposition 36 in the current year; that number will increase to \$5.4 million in the budget year. (These are the General Fund costs: they should be roughly doubled to estimate the size of the Medi-Cal service.) Clearly, federal funds will play only a minor role in California's implementation of Proposition 36.

The budget language in the current year was prepared in part because of concerns about the adequacy of Drug Medi-Cal benefit. For example, California services to children and youth are significantly below estimates of the incidence of substance abuse in the population. The Department has provided data to show that Medi-Cal served 6700 young people under the age of 21 in 1995-96; by 2000-01 the number was 6,972. The Supplemental Report language was a substitute for an initial subcommittee proposal to require the Department to develop a proposal to eliminate the Treatment Authorization Request system for EPSDT services and to make other proposals for changes to the rates and scope of benefits so that children and youth can be adequately served. More generally, Drug Medi-Cal services are not available in approximately 20 counties, presumably because rates are too low to interest providers or because the array of services are too limited to provide care, or both. The Department suggests that the administrative costs of Medi-Cal billing, or a lack of eligible providers are factors in the lack of providers in some areas of the state.

- **The Department will address the question of whether it plans to pursue development of improved access to Drug Medi-Cal, and whether it intends to pursue the Drug Medi-Cal expansion already approved by the Legislature.**
- **The Department will report on whether it is pursuing Drug Medi-Cal as a way to assure that Proposition 36 resources are adequate.**
- **The Department will report on whether it believes that the Drug Medi-Cal meets federal EPSDT requirements to provide all services necessary to resolve or ameliorate conditions found in children's assessments.**

Perinatal Programs

California provides \$6.9 million to a network of Perinatal Treatment Programs initially operated through federal Center for Substance Abuse Treatment grants, but whose federal grants have expired. These nine treatment programs provide a system of comprehensive services to pregnant and parenting women. Programs provide addiction treatment, health care, parenting services, vocational and education services. Each grantee monitors for health status, child welfare status, criminal justice involvement and emergency room use. Many clients have concurrent health or mental health disorders, are homeless, HIV positive, or have learning disabilities.

The department has also licensed or certified an additional 250 perinatal inpatient and outpatient treatment programs, funded with Drug Medi-Cal, State general Fund, and federal block grant funds. Few of the non-federal programs have comprehensive services; in particular, few are able to provide collateral services to other members of the family. Drug Medi-Cal rules provide that women may be served while they are pregnant and post-partum for sixty days. Federal regulators have resisted extending medical necessity beyond this point. CalWORKs has provided funding for many women in this target population; some programs receive Proposition 10 funding as well.

The nine federal network programs have testified that national evaluation data demonstrates that the full-service residential program have demonstrably better outcomes than other perinatal programs. Examples include: clean and sober 12 months post treatment (75% vs. 47%); percentage employed, in job training or in school post treatment (65% vs. 41%); and reunified with their children (75% vs. 21%). On the other hand, some county administrators believe that outcomes from out-patient perinatal program can result in excellent outcomes. One county provided outcomes from out-patient perinatal programs that include: clean and sober 6 months post treatment (80%); percent of those unemployed at entry who were subsequently employed at completion (95%); and percent who complete the 18-month program (75%). Although these programs claim significant success at reunifying women with their children, there is not a specific link between foster care treatment programs and these perinatal programs.

The budget proposes a reduction of \$2.5 million from perinatal programs in the budget year. The Department has also proposed to remove budget language that currently protects the Perinatal Treatment Program network programs that originally received federal funds.

The departmental funding available to perinatal programs, after the reduction is applied, is as follows:

Non-Drug-Medi-Cal General Fund	\$23.5 million
(includes the \$6.9 million for the Perinatal Treatment Network, although counties could apply the reduction to these funds)	
Drug Medi-Cal Perinatal General Fund	\$2.7 million
Drug Medi-Cal Perinatal Federal Fund	\$2.8
Federal Block Grant funds	\$15.6 million

Total

\$44.5 million

The perinatal residential programs admitted 4,339 women in 2000-01; the perinatal outpatient program admitted 9,976 women in 2000-01.

- The subcommittee will determine whether to adopt the Governor's reduction of \$2.5 million.
- The subcommittee will determine whether to eliminate the budget bill language.
- The subcommittee will determine whether to designate the cut between programs, or permit that decision to be made locally.

Federal Block Grant Funds

The federal government provides \$235.2 million in Substance Abuse Prevention and Treatment (SAPT) block grant funds in the current year. These funds are provided on the condition that states maintain a specific ongoing Maintenance of Effort (MOE) in state support for their drug and alcohol programs. The federal sanction for failure to meet the MOE is a \$1 reduction for every \$1 by which the state is found to be below the MOE.

The Department believes that the General Fund reductions sustained last year by the Department, and proposed for the current year, create some risk that the state will be found to violate the MOE requirements. Initially, the Department submitted information to the federal government counting the \$120 million annual appropriation for Proposition 36 as part of the state's MOE. In that circumstance, the state would be below the MOE by approximately \$3 million, in 2003-04, potentially leading to federal sanctions of that amount in the 2004-05 fiscal year. The Department believes that it could seek relief from the federal action on the basis that it is "within material compliance" of federal requirements.

However, if the \$120 million is counted, the state would be in the position of needing to continue the Proposition 36 appropriations after the five year period required by the initiative. **The administration has decided to exclude the \$120 million from the federal calculation, in order to maintain maximum flexibility in the future. This, however, would create a potential MOE problem in the budget year of \$14 million.** Any reduction in MOE would occur in 2003-04; any cure to the problem must occur in the budget year if a reduction is to be avoided.

The Department submitted a Section 28 letter scheduling \$16.2 in ongoing funds from the SAPT block grant, that reflect \$2.8 million from prior years and \$13.4 million from block grant funds received in the current year. The Department proposes the following allocation:

- \$3.0 million for federally required prevention and HIV services for previous increases;
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- \$3.8 million for federally required prevention and HIV services for the current year increase;
- \$9.3 million to counties for community services;
- \$0.2 million for one-time state support costs.
- (-\$0.1) million technical adjustment to the base

The Department has submitted a spring finance letter augmenting the federal block grant appropriation by \$15.2 million in ongoing funds, for a new total of \$250.6 million in ongoing funds. **The spring finance letter augments the budget by a \$20.2 million increase, including \$15.3 million from the ongoing increase; \$1.9 million remaining from the current-year award; and \$3 million from last year's block grant award increase that was inadvertently removed from the Department's base in constructing the 2002-03 budget.**

The Department proposes the following allocation:

- \$2.4 million for the federally required prevention set-aside for last year's increase;
- \$0.6 million for the required HIV set-aside for last year's increase;
- \$1.9 million from last year's award for ongoing automation expenditures;
- \$15.1 million for county services, including \$3.1 million for the prevention set-aside and \$0.8 million for the required HIV set-aside;
- \$150,000 million for maintenance of the California Outcomes Measurement System
- \$120,000 for contracts with the American Indian Training Institute and the Disability Technical Assistance contract

The spring letter indicates that counties will be strongly encouraged to use the total of \$11.3 million in discretionary funds not specified for a set-aside, for perinatal and youth treatment services proposed for reduction. In addition, the spring letter proposes that the \$2.1 million in automation funds include budget bill language that the funds cannot be spent without the approval of the required planning documents by DOIT and TIRU.

The LAO withholds a recommendation on the proposal to allocate funds for the California Outcomes Measurement System, because no FSR has been released yet. The LAO has no objection to the other expenditure proposals for these new funds, but notes that some of the funds could be used to offset reductions made elsewhere in this Department's budget.

The subcommittee will determine whether to adopt the proposed allocation of new federal funds.
